



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF APRIL 24, 2003**

CALL TO ORDER: Chairperson Cohen called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Cohen, Commissioners Weaver, Wieckowski, Harrison, Thomas, Natarajan

ABSENT: Commissioner Sharma

STAFF PRESENT: Jeff Schwob, Deputy Planning Manager
Larissa Seto, Senior Deputy City Attorney
Nancy Minicucci, Associate Planner
Christine Daniel, Deputy Director, Development and Environmental Services
Laura Gonzales Escoto, Deputy Director, Housing and Redevelopment
Melanie Shaffer Freitas, Housing Consultant
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Mark Eads, Video Technician

APPROVAL OF MINUTES: Regular Minutes of April 10, 2003 were approved as submitted.

CONSENT CALENDAR

IT WAS MOVED (WEAVER/HARRISON) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT ITEM 4 SHOULD BE ADDED TO THE CONSENT LIST.

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 3 AND 4.

IT WAS MOVED (WEAVER/HARRISON) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTIONS ON ITEM NUMBERS 3 AND 4.

Item 3. PASEO PADRE ESTATES – 40720 Paseo Padre Parkway – (PLN2002-00003) - to consider a General Plan Amendment and Environmental Impact Report (SCH# 200201089) to change the land use designation from Open Space .25 dwelling units per acre to Medium Density Residential 6.5 -10 dwelling units per acre on approximately 19 acres located in the Central Planning Area. An Environmental Impact Report was prepared and circulated for this project.

CONTINUE TO MAY 8, 2003.

- Item 4.** **BAY BILLIARDS – 40515 Albrae Street – (PLN2003-00173)** – to consider an Assistant City Manager referral of a planned district minor amendment to allow an existing billiard parlor to extend its hours of operation from 2 a.m. to 4 a.m. on weekends and holidays in the Industrial Planning Area. This project is categorically exempt from CEQA review, per Section 15301, Existing Facilities.

HOLD PUBLIC HEARING;

AND

FIND THAT THIS PROJECT HAS BEEN DETERMINED TO BE EXEMPT FROM ENVIRONMENTAL REVIEW PURSUANT TO THE GUIDELINES OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT SECTION 15301, CLASS 1, EXISTING FACILITIES;

AND

FIND PLN2003-00173 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTER AS ENUMERATED WITHIN THE STAFF REPORT;

AND

APPROVE PLN2003-00173, AS SHOWN ON EXHIBIT "A", SUBJECT FINDINGS AND CONDITIONS OF APPROVAL IN EXHIBIT "B".

The motion carried by the following vote:

AYES:	6 – Cohen, Harrison, Natarajan, Thomas, Weaver, Wieckowski
NOES:	0
ABSTAIN:	0
ABSENT:	1 - Sharma
RECUSE:	0

PUBLIC COMMUNICATIONS

ORAL COMMUNICATIONS

Mark Robson, local developer, spoke regarding the newly proposed R-3 zoning regulations. In addition to the setbacks, parking and height standards, he believed that engineering and landscaping were important to consider as part of the process. The existing engineering standards were out of date, such as the Private Vehicle Access Way (PVAW) Standards that were last updated in 1984. For example, currently, 24-foot wide driveways were required, often with garages on either side. In many communities, 20-foot driveways were allowed, which he believed would enhance the overall design of the project. Landscaping requirements were, in many cases, suburban requirements. For example, sometimes urban design required the compromise of allowing a tree to be planted in a smaller planting area, as opposed to no tree, because not enough room was available, per current landscape requirements. He also believed more trees should be allowed to be planted within a certain space, even if one or two needed to be removed later. He believed it was more important to have many trees at the beginning of a project as opposed to one tree that was not enough for the first few years "but looked great 15 years later."

PUBLIC HEARING ITEMS

- Item 1.** **WASHINGTON WEST SHOPS – 2500 Mowry Avenue – (PLN2003-00108)** - to consider an amendment to the Finding for Site Plan and Architecture for the Washington West Retail Shops to include fencing along the perimeter of the site and a Zoning Text Amendment to allow for fencing, no greater than 4 feet in height, with a landscape treatment as a screening element in areas along parking lots in commercial zoning districts. The Finding for Site Plan and Architecture project is categorically exempt from CEQA review per Section 15301,

Existing Facilities. The Zoning Text Amendment is exempt from CEQA review, per Section 15061(b)(3), because the project has no potential for causing a significant effect on the environment. (Continued from March 27, 2003.)

Associate Planner Minicucci stated that fencing had been erected on the Washington Hospital property along Mowry Avenue, Paseo Padre Parkway and off the driveway on Capital Avenue. Fencing was not permitted in commercial districts, nor by the approved plans or the original Finding application. Staff had encouraged the removal of fencing in certain locations. Approval would allow the in-place, three-foot high fence to remain along the perimeter of the property.

Deputy Planning Manager Schwob stated that staff was recommending a zoning text amendment and also wanted direction from the Commission concerning final fencing details, such as where it should be, what areas it should be in, how high it should be and how it should be handled in the final review.

Commissioner Natarajan asked if some other site specific way could have been found to accommodate the fencing rather than through a zoning text amendment.

Deputy Planning Manager Schwob replied that it could have been done through a planned district (PD). A picket fence in Niles would also be allowed under the zoning text amendment. No fencing regulation could be found and this amendment would correct that.

Associate Planner Minicucci added that a fence could only be approved through the Planning Commission or the Development Organization (DO) process.

Commissioner Wieckowski asked for staff comments concerning the applicant's claim that the non-approved fence was installed as part of security plans for the retail portion of the property. He asked if other commercial interests could use security concern as the reason for fencing their properties in the future. If the fence remained, BART pedestrians could not walk on the Washington West property.

Associate Planner Minicucci understood from Washington West that the purpose of the fence was to prevent vandalism to the public art feature and to vehicles in the parking lot, as well as to include the retail portion of the property in the campus-like environment that the hospital portion enjoyed. Fencing in a new development would be handled by the Commission at the time of Finding review or during the DO process.

Deputy Planning Manager Schwob stated that staff saw the fencing as a screening element for the parked vehicles, not as a security measure. Pedestrian connectivity through the site needed to be opened up. In future applications, fencing could be allowed to screen parked vehicles but would not be allowed to form a pedestrian barrier.

Commissioner Thomas asked where the other fencing was located on the hospital property and if there was fencing around the hospital parking lot.

Associate Planner Minicucci replied that fencing was around the Washington West parking lot adjacent to the retail portion of the property.

Commissioner Thomas asked if there was fencing around the main parking lot for the hospital.

Commissioner Harrison stated that instead of fencing, a large landscaped berm was in place that acted like a fence.

Commissioner Wieckowski asked if the Planning Commission had approved any of the fencing.

Deputy Planning Manager Schwob replied that it had not, because hospital facilities were reviewed and approved by the State rather than the City.

Chairperson Cohen opened the public hearing.

Taylor Bell, Washington Hospital representative, stated that the architect was changed, due to the Commission's request for an architectural redesign. When the new architect redesigned the project, the fence was omitted. He passed an artist's rendering of what the art feature would look like behind the existing fence and photos showing "goat paths" made by customers through landscaping at the Raley's shopping center. The fencing between the sidewalk and landscaping would not allow pedestrian access and the creation of "goat paths," thus avoiding a trip hazard, along with public and private liability. People using shortcuts through the landscaping would also create safety hazards while walking through the parking lot to and from the shops. It was safer to allow pedestrian access only in front of Walgreen's. He proposed removing two fence sections adjacent to Walgreen's and in front of the public art. He asked that the fence remain around the Phase 3 until it was developed and behind the mature landscaping along Mowry Avenue and Paseo Padre Parkway.

Commissioner Natarajan asked why the fence was three feet high when security was one of the reasons for it. She asked what alternatives, such as bollards or heavy landscaping, had been considered. Was the fencing considered permanent or could it be removed in two years after the project was finished, the landscaping had matured, the CBD was developed and pedestrian traffic had increased?

Mr. Bell believed this fence would impede pedestrians from "trampling the landscape and walking in among the parked cars." The three-foot fence matched the rest of the fence on the hospital property. Bollards would not prevent people from walking through the landscaping. He was not aware of any heavy landscaping consideration. He did not know if the hospital would consider a fence modification in the future.

Commissioner Natarajan asked if the hospital would consider removing the fence if the Commission approved it for a period of two years.

Mr. Bell opined that two years was a short period in which to expect to develop the parcel. He questioned that the CBD would develop in the hospital area within two years.

Commissioner Thomas admitted to walking along paths through landscaping, "like anybody else." She recalled that a few years ago a new college campus did not have landscaping or walkways for the first year because it was important to ascertain where the natural walking patterns occurred. The sidewalks were installed after the walking patterns showed where people walked. She suggested adding cement walkways through the landscaping where paths had been created, rather than attempting to route people down the fence line to the designated crosswalk.

Mr. Bell opined that a walkway, as Commissioner Thomas suggested, would allow people to jaywalk across Paseo Padre Parkway or walk through parked cars and into the traffic lane.

Commissioner Thomas argued that people walk across parking lots everywhere else in town. She did not believe his reasons for the fence were valid. She asked if the hospital decided to install the fence without realizing a permit was needed or if it was just not on the plans.

Mr. Bell replied that the question before the Commission was if and where the fence would be allowed and her comments were not relevant. He reminded the Commission that the layout and where pedestrian access was to be had been decided long ago as part of the site plan. "The fence was in the middle of the landscape feature and it was never planned for there to be public access through that landscape." He stated that the hospital believed that the architect had included the fence with the plans, as it had with the first design.

Commissioner Wieckowski asked what criteria were used when developing the current pedestrian plan.

Mr. Bell replied that the plan had undergone many iterations and reviews by staff and the Commission.

Commissioner Wieckowski asked if the Washington Hospital Board held a public hearing regarding public access to the retail site. He recalled taking a cultural geography class in the past and "the cute term, 'goat paths'," actually reflected how people walked from A to B, which, he agreed, was where the walkways should be installed. He recalled a pedestrian walkway behind the old Capwell's that was unknown, because no one needed to walk through that area. This barrier would prevent pedestrian flow from one project to another.

Mr. Bell stated that there was no public hearing by the hospital board. The landscaping plan was the subject of many meetings with staff and at least one Planning Commission review and it had all been approved. He guessed that the engineers planned pedestrian crossings to empty out at the corners where it was safe to cross. He claimed that the fencing would only impede people from walking through the landscaping and into the parking lot.

Commissioner Wieckowski believed that everyone who walked from BART to the Raley's shopping center used the "goat paths." He believed that the three-foot fence would be jumped over, creating more of a hazard that if there were openings in it to allow commuters to access the sidewalk or parking lot. He had hoped that the hospital administration would be flexible and would be willing to encourage pedestrians to walk on its property.

Doug Wiele, Foothill Partners, shopping center development consultant, stated that planning theory was to continue the grid pattern as it existed around the CBD together with the existing retail shops. He claimed that this site plan was approved in lieu of a different site plan that would have allowed pedestrian access in other locations.

Vice Chairperson Weaver asked if the hospital had no opposition to removing the fence around the public art area, how much would be removed. She noted that the fence in front of the undeveloped parcel had been damaged.

Mr. Bell agreed that the curved portion of the fence would be removed on both sides of the public art. Repairing the damaged fence had been put off until a decision was made at this hearing.

Commissioner Thomas suggested that stepping stones (or something) be installed from each end of the fence to allow one to walk closer to the public art and to discourage people from making a path through the landscaping.

Mr. Bell replied that pavers would have to be put within the landscaping and ADA access would probably have to be available. He stated that part of the public art area would also have to facilitate a traffic signal box.

Justine Burt stated that she had degrees in Urban and Environmental policy and economics. However, she was qualified to speak because she owned a home in the Parkmont neighborhood. She and her husband had chosen their home because they had wished to

live in a pedestrian friendly and mixed-use area. She realized that the current downtown climate involved 50 mile per hour traffic that favored cars and not pedestrians, enormous parking lots and now fences were being erected to insure that pedestrians had less access to the places they were trying to get to. Continuing to allow these things would ensure that "the streetscape would remain unappealing and deserted."

Commissioner Wieckowski asked if a limited fence, as recommended by staff, would encourage pedestrian friendliness.

Ms. Burt stated that the fence currently signaled pedestrians that this area was not pedestrian friendly and she agreed that walking next to six lanes of traffic was "scary." Some breaks in the fence would help "to send the message that it's not quite such an angry piece of retail."

Mr. Bell reminded the Commission that the site design had been before the Commission at least two times before it had been approved. Pedestrians using the sidewalk were separated from traffic by a thin strip of landscaping and that was one reason for channeling pedestrians to the corners and to the front of Walgreen's. He again mentioned the areas where the Hospital was willing to remove the fence.

Chairperson Cohen stated that he was more in favor of the applicant's position than he was not and agreed that the project "was what it was" and it was not practical to change it. He suggested that the Hospital should be willing to give a little more regarding the breaks in the fence. He believed that, eventually, the fence would come down when the shopping center became extremely successful and market forces would motivate the hospital to remove the fence.

Mr. Bell opined that the Hospital might be willing to consider other breaks in the fence as long as a traffic engineer were allowed to review it with safety factors in mind. He recalled the urban access, pedestrian-friendly issue that was debated in the past, but this version with the parking lot next to the sidewalk was what had been approved. He noted that adding openings in the fence would probably lose parking spaces and he did not want the hospital to be criticized for not providing enough parking. He announced that the corner tenant would be Peet's Coffee.

Chairperson Cohen replied that he had heard that Peet's would be the corner tenant. He stated that the problem was that the fence was installed without approval. He stated that he was "separating his displeasure with the hospital district's actions in the face of what it clearly knew it shouldn't do from a development point of view" and that was why he, more or less, was on the hospital's side. However, he wanted the issue of more fence openings to be thoroughly investigated.

Mr. Bell asked that considerations of safety, no loss of parking and jaywalking prevention be planned when making that decision.

Chairperson Cohen asked if the hospital would be satisfied with more fence openings if those issues were taken into consideration.

Mr. Bell stated that the hospital would consider it.

Vice Chairperson Weaver asked if a black fence was located parallel to the Capitol Avenue side of the property. She saw a car parked on the dirt when she looked at the property just before the meeting. She stated that she would vote for approval, as her "line in the sand" was the fencing around the public art. As long as that was to be removed, she could support the amendment.

Mr. Bell answered that the back of the Paine Webber building was on that side and there was no access. He thought the car probably belonged to someone working late.

Chairperson Cohen closed the public hearing.

Commissioner Wieckowski asked if it would be possible to make the public art more accessible to pedestrians, as the future public art on the Target property would be.

Associate Planner Minicucci stated that the public art feature on the hospital property was designed to be heavily landscaped, so that the public would not be able to walk up to it.

Commissioner Thomas stated that, when looking at the plans, there seemed to be a way to allow people walking to or from the parking lot to walk up to the public art.

Associate Planner Minicucci agreed that it seemed that some pedestrian connectivity would be allowed on either side of the public art area.

Commissioner Thomas asked if ADA access had to be provided or could a few stepping stones be laid through the landscaping.

Deputy Planning Manager Schwob opined that if there was access (or a hint of access), it had to be ADA accessible with a minimum width walkway, connection with the sidewalk and a slice taken out of the curb.

Commissioner Harrison disclosed that he had met and talked about the issues with one of the applicant's agents. He pointed out that one building was finished and the second one was ready to come forward. The landscaping, as currently planned, was required of the applicant, and the applicant had complied with the conditions. Breaks in the parking lot had been planned for pedestrian access and ADA access had been provided at Civic Center Drive and Mowry Avenue. He would support removing the fencing along the Walgreen's property, removing the circular portion of the fence in front of the public area and deferring a decision on the remaining fencing until Phase 3 was underway. He asked that an access be added somewhere along Paseo Padre Parkway with staff's direction.

Commissioner Natarajan believed that the larger issue was fences in the CBD, which, in her opinion, was 50 steps backward, as the City should be moving toward a pedestrian environment. She would be willing to work on a compromise for this specific project, but not if it was in the form of a zoning text amendment, which would then allow other fences to put in place in the CBD. Was there another way to look at this situation without tying it in with the other commercial districts?

Deputy Planning Manager Schwob At this point, the site would have to be rezoned to a planned district, which seemed excessive. However, a zoning text amendment could be crafted that limited a fence at this site, only. He feared that a few years down the road, dozens of limited zoning text amendments would crop up around town. No one would know why they were there and they would be deleted, leaving properties in a nonconforming situation. A variance was an option; however, there was no fencing code for the commercial district.

Commissioner Natarajan believed that the intent of the code was to disallow fencing on setbacks that faced the street.

Commissioner Harrison asked if the zoning administrator could provide a variance.

Chairperson Cohen agreed that a variance would be better.

Deputy Planning Manager Schwob replied that, as the Zoning Administrator, he could be directed by the Commission to issue a variance that would allow a fence in this instance.

Commissioner Natarajan asked if a variance could be issued for five years.

Deputy Planning Manager Schwob agreed that it could, but he was not sure if the City could track it and catch it down the road.

Commissioner Natarajan directed staff to proceed with additional breaks right behind where the future building was scheduled to be built, which would provide direct access to Peet's. She agreed that the market would eventually force the fence to be removed. This was not an ideal situation, but if the breaks were agreed to without it being tied to a zoning text amendment, she would support it.

Commissioner Harrison asked if a variance could be granted by the Zoning Administrator for this one specific issue.

Assistant City Attorney Seto agreed that a variance was a better approach, as one did not want to set a general rule that was so limited in nature.

Chairperson Cohen asked if a variance needed to be approved by the Commission.

Deputy Planning Manager Schwob replied that variances were the pruvew of the Zoning Administrator and would not come before the Commission unless they were appealed.

Chairperson Cohen recommended that a five-year variance be recommended to the Zoning Administrator.

Commissioner Wieckowski stated that he would not support a variance and asked if it would be helpful if the Commission made a finding that this was an unique property as it was adjacent to the CBD and was a gateway into the downtown area.

Deputy Planning Manager Schwob stated that all comments would be reviewed.

Commissioner Harrison asked if the motion included giving guidance to the applicant about removing the fencing at the various, previously discussed locations.

Chairperson Cohen asked that the minutes include comments made by the Commission as guidance to staff when accommodating the applicant.

IT WAS MOVED (WEAVER/THOMAS) AND CARRIED BY THE FOLLOWING VOTE (5-1-0-1-0) THAT THE PLANNING COMMISSION **HOLD PUBLIC HEARING;**

AND

PROVIDE DIRECTION TO THE APPLICANT AND STAFF ON THE PROPOSED FENCING LOCATION AND DETAILS

AND

DIRECT THE ZONING ADMINISTRATOR TO ISSUE A VARIANCE SPECIFIC TO THIS USE AND LOCATION.

The motion carried by the following vote:

AYES:	5 – Cohen, Harrison, Natarajan, Thomas, Weaver
NOES:	1 – Wieckowski
ABSTAIN:	0
ABSENT:	1 – Sharma
RECUSE:	0

Chairperson Cohen called for a 10-minute recess at 8:10 p.m.

Chairperson Cohen called the meeting back to order at 8:20 p.m.

- Item 2. HOUSING & LAND USE ELEMENT REVISIONS – Citywide – (PLN2001-00111)** - to consider revisions to the Housing Element of the City's General Plan in response to comments from the State Department of Housing and Community Development. Corresponding changes are proposed within the City's Land Use Element to achieve consistency between the elements. A Negative Declaration has been prepared and circulated for this project.

Modifications to the Housing Element Text:

In Chapter 5 (Resource Inventory) add the following sentence to the end of the first full paragraph on page 81:

"Maps depicting vacant, underutilized and program sites are available for review at the City's Development and Environmental Services Center."

On the title pages of Appendices "C" ((pg. 170), "D" (pg. 171) and "E" (pg. 175) add the following sentence:

"Maps depicting these sites are available for review at the City's Development and Environmental Services Center."

Deputy Planning Manager Schwob recommended that the public hearing be opened and comments and questions be made to staff.

Chairperson Cohen opened the public hearing.

Doug Ford, 18-year Fremont resident, believed that the Housing Element was substantially inadequate and continued the City's past history by stating that it was in favor of affordable housing, but never producing it. He stated that most of the sites identified as appropriate for low and very low-income housing had not be adequately analyzed. He shared photos of some of the sites and expressed his opinions about them:

- Site suitable for 120 units had high voltage power lines above the property.
- Site suitable for 122 units was currently a commercial shopping center at corner of Fremont Boulevard and Driscoll Road with no vacancies.
- Site suitable for 148 units was a busy warehouse.
- Site suitable for 99 units was in the middle of a moderate, middle class neighborhood that backed up to the hills, which would be environmentally and politically unfeasible.
- Site of new ReMax office building.

Mr. Ford discussed other sites shown on the map that he deemed inappropriate. The plan did not analyze whether a particular site would be available within the three-year planning period. Additional high-density zoning did not guarantee that affordable housing would occur. He proposed an affordable housing overlay. He questioned the housing element hearing, as he understood that it had been submitted to the State before it was heard and approved by the City Council. He asked that staff actually analyze the sites to provide a true inventory of available sites.

Commissioner Wieckowski asked how the speaker would suggest appropriate sites should be selected. Did he have an opinion concerning converting commercial sites to residential or mixed use? He asked if any City-owned parcels were appropriate for development of affordable housing.

Mr. Ford replied that the sites should first be looked at. For example, a site on the slope of 680 at Auto Mall Parkway that consisted of approximately three acres of developable property but had no nearby bus line, services or shopping was not appropriate. Before committing to the site, potential zoning changes should be reviewed to ascertain if they were politically and economically feasible. In his opinion, the City had a useless inventory. Commercial properties were feasible, if the developer was willing to tear down the building(s) and start from scratch. He wondered how an occupied site could be ready for the development process within three years. One City-owned property that he felt was appropriate was the old Corporation Yard that was 4½ acres; however, it was not listed.

Commissioner Harrison noted that in the year 2000, no one knew how the ReMax property would ultimately be used. He asked if Mr. Ford was suggesting that it should be deleted from the list, because we now knew how it was going to be used.

Deputy Planning Manager Schwob stated that this parcel was no longer in the inventory and the list had been updated since 2000 when it was originally compiled.

Rachel Pinsky, Law Center for Families, stated her organization was a nonprofit representing low and very low-income households in Alameda County and part of its mission was the preservation and development of affordable housing. She provided copies of her comments to the Commissioners and noted that the document included a chart and map showing various inappropriate housing sites. She agreed with the previous speaker's comments concerning the appropriateness of some of the sites listed. She noted that a March 28th letter from the Department of Housing and Community Development stated that alternative sites must be identified by the City to replace any inappropriate sites and must be ready to develop by 2006. Rooming and boarding houses were required to obtain a CUP and she claimed that people with disabilities commonly lived in these kinds of residences. The draft did not include affordable housing "by right" as mandated by State law if the land inventory was insufficient. She closed by proposing an affordable housing overlay zone to ensure that affordable housing was actually built on some of the higher density sites, as opposed to the sites being used for luxury housing.

Chairperson Cohen asked her to elaborate on an affordable housing overlay zone, which he felt could be the solution. He believed that the only successful model for affordable housing was when a nonprofit development corporation was involved. Mixing affordable housing with market rate housing did not produce the numbers that the nonprofit development corporations were able to meet. It seemed obvious that every suggestion that she and Doug Ford had made would not work unless the money was available. He believed that this hearing was an exercise in futility, because money, especially in the current climate, was not available.

Ms. Pinsky replied that the City had many options when encouraging affordable housing development. Making it easier to build encouraged nonprofit developers to consider the City for affordable housing. If a certain piece of land was set aside only for affordable housing, and nonprofit developers knew they would not have to compete for that parcel, an affordable project could become possible. An overlay zone would require a certain level of affordability within the R-3 Zone and certain sites could be chosen that would be designated for affordable housing.

Commissioner Natarajan asked if this was something that could tie into the density bonus program that the City was developing or if the review process could be expedited, based upon certain conditions. She wondered if it could be combined with Transit-Oriented Development (TOD) housing.

Ms. Pinsky agreed that incentives could be part of the overlay zone and it would be appropriate to include a density bonus within it, along with other incentives, such as parking standards and open space. Tying affordable housing with transit-oriented development was a good idea.

Chairperson Cohen asked if she had reviewed the Piedmont affordable housing element. There were many communities that had failed to provide market rate housing, let alone affordable housing.

Ms. Pinsky stated that she had not reviewed it and had no opinion. She stated that the City of Fremont's affordable housing elements was one of the few that her organization had chosen to monitor.

Chairperson Cohen stated that the public hearing would remain open until the next public hearing.

Deputy Director Daniel stated that she would like to hear any comments before the May 8th hearing.

Commissioner Harrison noted that page 72, Public Service, spoke of police and fire. In his opinion, there was a difference between public service and public safety. He suggested wording, such as, "In addition to providing public safety, like police and fire, the City provides a variety of other public services."

Commissioner Wieckowski believed that many changes should be made to encourage affordable housing, as follows:

- Required 50% open space should be reduced.
- Required setbacks for apartments should be reduced to provide incentive to build additional units and maintain current units.
- Low interest rates should be provided to homeowners who were interested in building second units on properties large enough to accommodate them.
- Limitations should also be modified or relaxed to allow for the addition of second units.
- The City could provide architectural guidelines or typical plans to encourage second units.

Commissioner Natarajan opined that three factors tied in to provide affordable housing; they were density, diversity, and design. She asked what the highest density project in the City was.

Deputy Planning Manager Schwob replied that the Benton was 31 units to the acre.

Commissioner Natarajan asked if Mission Wells, at 50 units per acre, might be the highest density development. Many Bay Area cities had increased allowed density to 65 and 70 units per acre, especially near transit corridors. High-density projects were not necessarily badly designed, as seen by many attractive projects in the Bay Area. Floor area ratios should be reviewed. She recalled townhouses that had come before the Commission that were 2400 square feet. That was a single-family home disguised as a townhome. A range of floor plans from 600 square foot studios to the larger four bedroom units should be available. She agreed that the City needed to eliminate the suburban standards for setbacks and lot coverages and allow newer types of housing, such as an overlay zone that allowed higher

density within one-half mile around the BART stations and the transportation corridors. She agreed with Mark Robson's comments made earlier during Public Comments. She asked where the housing units were planned within the CBD.

Deputy Planning Manager Schwob replied that they were the same as had been stated in the CBD Concept Plan: the BART parking lot site, Mount Vernon and The Hub.

Chairperson Cohen agreed with Commissioner Natarajan's comments. Important questions were raised by the letter from the Law Center for Families that needed to be addressed. He liked the concept of an affordable housing overlay zone.

Commissioner Harrison noted that one of the Central Avenue apartments had been remodeled and had helped the area in a positive way. The City needed to help similar projects. He complimented Deputy Planning Manager Schwob, Ms. Shaffer Freitas and Ms. Gonzalez Escoto for their hard work on the revision and expected that the Commission's comments would make it better.

Commissioner Natarajan suggested that the City should encourage green building principals in the design in multifamily houses beyond what was suggested on page 155, Energy Conversation.

Commissioner Wieckowski believed that on page 93, No. 4 should become No. 1 and the City of Fremont should become a leader in affordable housing opportunities. The focus should be changed from meeting the bare minimum to developing opportunities. He expected that surrounding neighbors would object to affordable high-density infill projects and they might not be successful.

Commissioner Harrison suggested that the map should be made available that showed specific available areas the next time this item was heard.

Commissioner Wieckowski stated that page 97 talked about continuing to apply policy goals. He read the zero tolerance sprinkler ordinance summary and opined that it could be an economic disincentive for small-parcel affordable housing opportunities, because the whole house would have to be resprinklered when adding a second unit of 600 square feet.

Commissioner Thomas asked if the Commissioners should keep their paperwork

Deputy Planning Manager Schwob suggested that it be taken with them.

CONTINUE PUBLIC HEARING TO MAY 8, 2003 TO CONSIDER RECOMMENDATION TO COUNCIL.

- Item 5. GUPTA RESIDENCE REVISION – 45661 Montclair Terrace – (PLN2003-00233)** – to consider a Planned District Minor Amendment reviewed by the Planning Commission to allow a cast balustrade where wrought iron was originally approved and to allow the incorporation of an additional stone veneer material for the above project located in the Mission San Jose Planning Area. This project is categorically exempt from CEQA review, per Section 15301, Existing Facilities.

Kartik Patel, architect, stated that the homeowner had seen similar wrought iron handrails on tract houses and had decided that he wanted something different. The design before the Commission was one the owner "loved" after rejecting many others. The applicant also requested approval for changing the lower deck of the handrail from travertine to stone veneer, which would be better suited to the balustrade. The last change, which had been approved, was using travertine rather than slate veneer on the exterior cladding, because of bleeding problems with the slate in other projects.

Commissioner Natarajan asked what the gap between balustrades was at the narrowest point and what was the color.

Mr. Patel replied that the gap was between $\frac{3}{4}$ of an inch and an inch. The color would be the same as the color of the stucco.

Commissioner Natarajan opined that because of the top and bottom gaps, this design would add bulkiness to the house, as was seen over and over with houses in the Mission hills. She asked if the owners would consider wrought iron between the balustrades, which would widen the gap and would be more in keeping with the scale of what was seen in Europe.

Mr. Patel stated that each spindle would be very narrow, which would lessen the bulkiness. He believed that introducing another element, such as wrought iron, would not be as pleasing as the balustrades alone. He agreed to present her suggestion to the owners and to work with staff. The project was scheduled to be completed by the first week of September, so time was a factor.

Commissioner Thomas was unhappy with both options. The balustrade was worse than the original "busy" wrought iron, as it was thick, massive and did not fit with the rest of the house. She asked why the owners decided that they did not want the wrought iron. Perhaps they would be happy with a simpler wrought iron design

Mr. Patel replied that he had suggested seven alternates in wrought iron and his client did not like any of them. He believed that when the owners saw similar wrought iron handrails on six tract homes that were next to each other, they did not want the same wrought iron on their beautiful, custom home. He described the process of choosing and designing the handrail. He showed samples of the finish and the material to be used for the balustrade. He stated that the feel, profile, detailing and attachment of the handrail would be different from the homes that Commissioner Natarajan had mentioned. He had an obligation to provide the handrail that the owners wanted, along with designing it to be as compatible as possible with their new home.

Commissioner Thomas agreed that the handrail was too bulky and suggested that the architect tell his clients that it was the Commission who did not like it.

Chairperson Cohen closed the public hearing.

Commissioner Thomas assumed that a regulation dictated how far apart the balustrades could be.

Deputy Planning Manager Schwob replied that they could be no farther apart than four inches.

Vice Chairperson Weaver did not like the new proposal and agreed with Commissioner Natarajan and Commissioner Thomas that it did not fit the design of the house. She would not approve the new proposal.

Commissioner Harrison knew Mr. Patel's work and believed that he had tried to convince his clients of the superiority of the alternate handrail designs. He believed that the clients should have the option to work with staff to try to agree upon a different design. If nothing else satisfied them, this design could be "the fall back position."

Deputy Planning Manager Schwob suggested a two-week continuance to allow the architect to communicate the Commission's opinion to his clients. He suggested that some areas could have a solid railing or a horizontal element could be added.

Commissioner Thomas suggested that safety glass could be considered or the balustrades could be straight and simple rather than the current rounded design that filled the space. Other materials could also be considered.

Commissioner Natarajan stated that she understood Mr. Patel's position and knew that he was a good and conscientious architect who would not have brought this design before the Commission unless he was forced to, which told the Commission how much his clients wanted the design. She would consider the design if wrought iron was inserted between the balustrades to simplify the design and made it look less bulky. She asked that the handrail not be painted white, but the color of the house.

Chairperson Cohen felt frustration about most of the homes in the whole area. If this homeowner wanted to contribute to the obscenity of the area, the Commission should allow him to do it. He supported Commissioner Natarajan's suggestion.

Commissioner Wieckowski noted that the home was in the mission, Spanish, eclectic style and wondered how elastic that style was.

Chairperson Cohen interrupted to opine that it did not matter when compared to the other homes in the area. He believed in this architect and felt he was doing his best.

Commissioner Natarajan defined the motion: The architect was to continue to work with staff to introduce some spacing elements so that the balustrades were not quite as close and the handrail was to be painted the same color as the house.

It was agreed that other amenable alternatives that met with the approval of staff and the architect's client would be appropriate. If no consensus could be reached between the client and staff, it would come back to the Planning Commission. The veneer change would also be a part of the approval.

Commissioner Wieckowski asked if the project was being approved with the modifications that were agreed upon by staff and the architect's client.

Deputy Planning Manager Schwob clarified that the travertine and cultured stone changes were to be approved by the Commission. He asked if the client did not approve of a different handrail design, did the Commission want to review it.

The Planning Commission agreed.

Chairperson Cohen complimented Mr. Patel on his work within the City. He was "in a tough position."

IT WAS MOVED (HARRISON/NATARAJAN) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

DIRECT STAFF TO WORK WITH THE ARCHITECT AND HIS CLIENTS TO MODIFY THE HANDRAIL TO CONFORM MORE CLOSELY WITH THE DESIGN OF THE HOME;

AND

BRING THE DESIGN BACK TO THE COMMISSION FOR REVIEW IF NO COMPROMISE CAN BE REACHED.

The motion carried by the following vote:

AYES: 6 – Cohen, Harrison, Natarajan, Thomas, Weaver, Wieckowski
NOES: 0
ABSTAIN: 0
ABSENT: 1 – Sharma
RECUSE: 0

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: None
- Information from Commission:

Commissioner Harrison stated that he had received a memo from the Fire Chief Lydon's son, also Dan Lydon, who worked for BFI as an operational supervisor. Mr. Lydon had noticed non-BFI debris boxes at building sites within the City. When Mr. Lydon questioned an employee at one of the sites, he was told that they had not been informed of the contract that the City had with BFI to pick all waste disposal within the City. He had asked that the City notify developers of the City's contract with BFI.

Deputy Planning Manager Schwob promised to forward his comments to the Environmental Services Department.

Meeting adjourned at 9:40 p.m.

SUBMITTED BY:

APPROVED BY:

Alice Malotte
Recording Clerk

Jeff Schwob, Secretary
Planning Commission